

The 29th September, 1994

No. 14/13/87-6Lab./615.—In pursuance of the provisions of section 17 of the Industrial disputes Act, 1942 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to appoint the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court Gurgaon in respect of the dispute between the workman and the management of M/s H. A. V. Bawal *Versus* Smt Kanta Rani.

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GURGAON

Reference No. 47 of 1990

between

SMT. KANTA RANI WIFE OF SHRI AMAR SINGH, C/O SHRI SHARDHA NAND, GENERAL SECRETARY, AITUC OFFICE, 214/4 MARLA, GURGAON AND THE MANAGEMENT OF HARYANA AGRICULTURE UNIVERSITY, BAWAL, DISTRICT, MOHINDERGARH

Present:

Shri Shardha Nand, for the workman.

Shri M. P. Gupta, for the management.

AWARD

1. In the exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 (in short "the Act"), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication,—*vide* Haryana Government Labour Department endorsement, No. 6321-26, dated 15th February, 1990:—

Whether the termination of Smt. Kanta Rani is legal and just? If not, to what relief is she entitled?

2. The facts according to the claim statement are that the petitioner was appointed as helper with the respondent namely Haryana Agriculture University, Bawal on 1st January, 1972 a monthly salary of Rs. 650 and the management illegally terminated her service on 30th August, 1989 without assigning any reasons.

3. The claim of the petitioner was contested by the respondent management and was denied that the petitioner was engaged on regular basis or that she had worked for the period given above. It was pleaded that the workman was engaged on 3rd February, 1980 on casual basis and she worked for 37 days from February, to May 1980 and 7 days in November 1980 and 67 days from January to April 1981 and was again engaged from 16th July, 1988 and had worked for 160 days till May 1982 and she did not work thereafter till March 1983 and had worked for 104 days in 1983 and during the month of March and April 1984. She had worked for 10 days and 20 days respectively and had worked for 111 days from 29th July, 1984 to 1st August, 1985. It was pleaded that workman had not worked for 240 days, therefore, She had no right or lien over the post.

4. On these pleadings, following issue was framed on 7th June, 1991:—

Whether the termination of services of Smt. Kanta Rani is legal and just? If not, to what relief is she entitled?

5. I have gone through the evidence and have heard the authorised representative of the workman and the management. My finding on the issue framed is as under:—

6. The management has examined Ramesh Kumar, Fruit Pathologist, who brought the muster rolls and deposed that petitioner was engaged on casual basis and the pay was disbursed on the muster rolls. He brought the muster rolls and proved the copy Ex. M 1. He deposed that workman had not worked for 240 days, nor any appointment letter was issued and University was engaged in the research work and under various schemes, casual labour was employed and research over seeds was carried out.

7. On the other hand, the workman has examined herself as WW1. She deposed that she was appointed as Beldar on 1st January, 1972, but no appointment letter or wage slip was issued and her services were terminated on 30th August, 1989 and she did not receive any notice or retrenchment compensation. She stated that she was getting a salary of Rs. 650 per month and was working under the fodder section scheme and used to receive pay for the period, she had worked. She had admitted in her cross-examination that she did not make any complaint to the Labour Department regarding non receipt of salary from August, 1985 to 1989.

8. The workman in this case has taken up a plea that she had worked continuously from 1st January, 1972 to 30th August, 1989. She has also admitted that no appointment letter or wages slip had been issued. She had never made any complaint to the Labour Department regarding non receipt of salary. The management has placed on record copy of muster rolls, which shows the period during which, the petitioner had worked. According to it she had worked for the period detailed below:—

| Years | Days |
|-------|------|
| 1980 | 44 |
| 1981 | 159 |
| 1982 | 76 |
| 1983 | 104 |
| 1984 | 92 |
| 1985 | 49 |

9. The copy of the muster rolls shows that the workman had not worked for 240 days in any of the years, nor she has been able to bring any material on the file to show that she had worked for the period she has alleged. There is no evidence to show that her services were engaged in January 1972, nor she had summoned the record from 1972 onwards. Admittedly, signatures are obtained on the muster rolls when the pay is disbursed, therefore, if the workman had worked the muster rolls would have depicted the true picture. A perusal of the detail clearly shows that the petitioner had worked with the management for certain broken period in between and there were long gaps/breaks and the petitioner did not complete continuous service of 240 days in any of the years. Since the petitioner did not put in 240 days of service, she is not entitled to any relief under the provisions of the Act and it was not necessary for the management to comply with the provisions contained in Section 25F of the Industrial Disputes Act, 1947. In view of the above discussion, it is held that the petitioner Smt. Kanta Rani is not entitled to any relief. Reference is answered and returned accordingly with no order as to costs.

ANITA CHAUDHARY,

The 17th August, 1994.

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 1282, Dated 30th August, 1994.

Forwarded (four copies) to the Secretary to Government Haryana, Labour and Employment Departments, Chandigarh under section 15 of the Industrial Disputes Act, 1947.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

No. 14/13/87-6Lab./623.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s. Ashi Pvt. Limited, Rewari *versus* Joginder Singh.

IN THE COURT OF MRS. ANITA CHAUDHARY, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL CUM-LABOUR COURT, GURGAON

Reference No. 528 of 1992

between

SHRI JOGINDER SINGH C/O SHRI GIRVAR SINGH, BALWANT SINGH,
MOHALLA JATWARA, VILLAGE AND P. O. BAWAL, DISTRICT
REWARI.

and

THE MANAGEMENT OF M/S ASHI PVT. LTD., JHAJJAR ROAD,
REWARI

Present :

Shri Girvar Singh, for the workman.

Shri R. V. Pandey, for the management.

AWARD

1. In exercise of the powers conferred by clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the service matter between the parties mentioned above, to this Court for adjudication,—*vide* Haryana Government, Labour Department Endorsement No. 56757—62, dated 18th December, 1992.

2. Parties have settled the dispute. Their statements have been recorded separately. In view of the statements made by the parties, reference stands disposed off as fully settled.

Dated the 1st August, 1994.

ANITA CHAUDHARY,

Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

Endorsement No. 1310, dated 30th August, 1994.

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the I. D. Act, 1947.

ANITA CHAUDHARY,
Presiding Officer,
Industrial Tribunal-cum-Labour Court,
Gurgaon.

No. 14/13/87-6Lab./645.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court-I, Faridabad in respect of the dispute between the workman and the management of M/S Delhi Auto Mobile Ltd., Faridabad *versus* Harpal Singh..

BEFORE SHRI N. L. PRUTHI, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-I, FARIDABAD
Reference No. 27 of 94

IN THE MATTER OF INDUSTRIAL DISPUTE

between

SHRI HARPAL SINGH C/O SHRI SUBHASH SHARMA, LMS HANUMAN
MANDIR, SECTOR 22, FARIDABAD. .. *Claimant*

and

M/S DELHI AUTOMOBILE LTD., 12/5, MATHURA ROAD,
FARIDABAD. .. *Management*

Present :

None.

AWARD

Under the provisions of section 10(1) c of the Industrial Disputes Act, 1947 the Government of Haryana have,—*vide* Endorsement No. ID/FD/9017—20, dated 8th March, 1994 referred the following dispute, between the parties above named for adjudication:—

Whether the termination of services of Shri Harpal Singh is legal and justified. If not, to what relief he is entitled?

2. The case has been called again. It is 12.30 P. M. now. No one has appeared from the side of the workman. It appears that the workman is not interested to pursue his case. Even the management has also not put in appearance. So, when both the parties are not appearing, there is no alternative except to pass "No claim Award" and the same is hereby passed.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum-Labour
Court-I, Faridabad.

Dated : 20th September, 1994.

Endorsement No. 3528, dated the 20th September, 1994.

A copy with three spare copies is forwarded to the Commissioner and Secretary to Government of Haryana, Labour Department, Chandigarh.

N. L. PRUTHI,

Presiding Officer,
Industrial Tribunal-cum-Labour Court-I,
Faridabad.

The 11th October, 1994

No. 14/13/87-6 Lah./649.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal-cum-Labour Court, Gurgaon in respect of the dispute between the workman and the management of M/s. Administrative Faridabad Complex, Administration, Ballabgarh *versus* Mahabir

IN THE COURT OF SHRI U. B. KHANDUJA, PRESIDING OFFICER, LABOUR COURT-II, FARIDABAD

Ref. No. 276 of 1991

between

THE MANAGEMENT OF M/S. ADMINISTRATIVE FARIDABAD COMPLEX;
ADMINISTRATION, BALLABGARH (FARIDABAD)

versus

THE WORKMAN NAMELY SHRI MAHABIR S/O SHRI RAMPAL GUJAR C/O SHRI D. P. GAUTAM, SHOP NO. 12, MARKET NO. 5, FARIDABAD.

Present:—

Shri Ashok Sharma, Authorised Representative for the workman.

Shri B. S. Yadav, for the respondent.

AWARD

1. In exercise of the powers conferred by clause(c) of sub section (i) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter referred to as "the Act"), the Governor of Haryana referred the following dispute, between the parties, mentioned above, to this Court, for adjudication—*wide* Haryana Government endst. No. 25092—97, dated 11th July, 1991:—

Whether the services of Shri Mahabir were terminated or he had abandoned the job himself having remained absent? The relief, to which is he entitled as result thereof?

2. Briefly stated the case of the workman is that he was appointed by the respondent as Beldar in the Year 1982. His work and conduct had been satisfactory. No charge-sheet or warning was ever issued to him. His services were terminated in June 1986 without any reason and without giving any notice or pay in lieu of notice and retrenchment compensation. The person junior to him were also retained in service. The termination of his services is illegal being violative of provisions of Section 25-F and 25-N of the Act. Consequently, he is entitled to be reinstated into service with continuity in service and full back wages.

3. The respondent submitted written statement stating therein that the workman was employed as a daily wages/*ad hoc* employee. He was never appointed on regular basis. He was also not confirmed. He had been absent from duty with effect from May, 1986 and so his name was removed in June 1986. He had received all his dues in full and final settlement. Even otherwise, his name was liable to be removed from the muster rolls due to his absence from duty for a period of more than 10 days as per provision in the Model Standing Orders. It is not a case of retrenchment. Consequently, he is not entitled to any relief.

4. The workman submitted rejoinder dated 9th December, 1992 re-asserting the previous averments and denying the averments of the respondent.

5. On the pleadings of the parties, the following issue was framed :—

Whether the services of Mahabir were terminated or he had abandoned the job himself having remained absent ? The relief, to which is he entitled as result thereof ? (As per terms of reference).

6. Both the sides have led evidence.

7. I have heard the authorised representatives of both the sides and have also gone through the evidence on record. My findings on the aforesaid issues are as under :—

8. MW-1 Vijay Kumar deposed that the workman was employed in the year 1983 on the post of Beldar. He had worked upto May 1987. His services more terminated on account of non-availability of work and grant of sanction by the higher authority. In the end, he stated that no new appointment of Beldar was made after the termination of services of the workman. He did not state that the workman had absented himself with effect from May 1986 as stated in the written statement.

9. On the other hand, the workman deposed facts as mentioned in his claim statement.

10. Shri B. S. Yadav, Authorised representative for the respondent urged that it stands established from the statement of the witness that the workman was appointed on daily wages. He was not appointed or regular basis. The contract of service with him used to be renewed daily on the availability of works. It was not renewed due to non-availability of work. His case falls under the provision of sub-section 2 (oo) (bb) of the Act. The provision of section 25-F is not applicable. Consequently, the workman is not entitled to any relief.

11. In reply, it has been submitted on behalf of the workman that it is admitted by MW-1 Vijay Kumar that the workman had rendered service for a continuous period of more than 240 days proceeding the date of termination of his services. MW-1 Vijay Kumar also admitted in his cross-examination that the workman was not paid retrenchment compensation. The termination of services of the workman is thus, violative of the provision of Section 25-F of the Act. Consequently, the workman is entitled to be reinstated into service with continuity in service and full back wages.

12. It was held in the case of Surender Nath Sukla and others *versus* Vice Chancellor, Allahabad University and others 1986 UPL BEC 667 referred to in the case Govind Singh *versus* P. O. U. P. Agra and others 1993 LLR 142 that the services of a daily wager who has completed 240 days work within a period of 12 months immediately proceeding the date of termination can not be terminated without paying to him the retrenchment compensation and following the procedure provided under law. A division bench of our own Hon'ble High Court held in the case of the Management of Haryana Urban Development Authority *versus* Neelam Kumari and others 1993(2) PLR 552 that the workman completed 240 days in a calendar year will be treated as regular. The authorised representative of the respondent has not referred to any decision to support his contention that in the case of daily wages worker the contract of service is taken to be renewed every day. Admittedly the workman had rendered service for a continuous period of more than 3 years before termination of services. His services could not be terminated without payment of retrenchment compensation as per provision of Section 25-F of the Act. Consequently, the impugned action of the respondent terminating the services of the workman is illegal and unjustified. The workman is entitled to be reinstated into service with continuity in service. The workman is however, not entitled to full back wages as he served demand notice after the expiry of long period of 5 years without any reason. He has also been working on his own one acre of land as per his own version. He is entitled to 50% of the back wages from the date of receipt of reference i. e. 11th July, 1991. The award is passed accordingly.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

Dated:
16th September, 1994.

Endst. No. 2904, dated the 22nd September, 1994.

A copy with three spare copies is forwarded to the Commissioner and Secretary to Government, Haryana, Labour Department, Chandigarh.

U. B. KHANDUJA,

Presiding Officer,
Labour Court-II,
Faridabad.

P. R. KAUSHIK,

Financial Commissioner and Secretary to Government,
Haryana, Labour and Employment Departments.